



PUEBLO OF LAGUNA
P.O. Box 194
LAGUNA, NEW MEXICO 87026



Office of:
The Governor
The Secretary
The Treasurer

(505)552-6654
FAX: (505)552-6941

PUEBLO OF LAGUNA

Ordinance No. 200-10

Re: Cigarette Tax

WHEREAS, the Pueblo of Laguna is a federally-recognized Indian Tribe organized pursuant to the Indian Reorganization Act of 1934; and

WHEREAS, the authority to levy and collect taxes on persons and entities engaged in activity on Pueblo lands is vested in the Pueblo Council by Article IV, Section 2(f) of the Pueblo Constitution; and

WHEREAS, the Pueblo Council has determined that it is in the best interests of the Pueblo of Laguna to enact a tax on cigarette sales within the Laguna Reservation, pursuant to the inherent sovereign authority of the Pueblo recognized in the Pueblo Constitution.

NOW, THEREFORE, BE IT ORDAINED BY THE PUEBLO COUNCIL OF THE PUEBLO OF LAGUNA, that effective July 1, 2010, the Pueblo of Laguna Cigarette Tax Ordinance is enacted as follows and to be codified as Title 6, Chapter 6 of the Pueblo of Laguna Code:

CHAPTER 6. CIGARETTE TAX

Section 6-6-1. Title.

This chapter is known as the Cigarette Tax Ordinance.

Section 6-6-2. Definitions. For purposes of this chapter:

Cigarette means

- (1) any roll of tobacco or any substitute for tobacco wrapped in paper or in any substance not containing tobacco;
- (2) any roll of tobacco that is wrapped in any substance containing tobacco, other than one hundred percent natural leaf tobacco, which, because of its appearance, the type of tobacco used in the filler, its packaging and labeling, or its marketing and advertising, is likely to be offered to, or purchased by, consumers as a cigarette, as described in § 2(a)(1) of this Ordinance;

- (3) bidis and kreteks; or
- (4) any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco, for making cigarettes (“roll-your-own” tobacco); 0.09 ounces of roll-your-own tobacco shall constitute one cigarette.

Division means the Tax Administration Division of the Pueblo of Laguna.

New Mexico Tax Credit Stamp means the stamp issued by the New Mexico Taxation and Revenue Department for use by state-licensed cigarette distributors to indicate that the cigarette package bearing the stamp is to be or has been sold by a retailer located on land of a tribe that has imposed a qualifying tribal cigarette tax, as defined by § 7-12-2(K) NMSA 1978 as amended by Laws of New Mexico, 2010 2nd Special Session. Chapter 5.

Package of cigarettes means an individual pack, box or other container, but does not include a container that itself contains other containers, such as a carton of cigarettes.

Person means any individual, firm, partnership, joint venture, association, corporation, estate, trust, any entity of tribal, federal or state government, and includes any Laguna Pueblo Enterprise.

Pueblo means the Pueblo of Laguna.

Reservation means all lands subject to the jurisdiction of the Pueblo, including all lands held by the United States in trust for the Pueblo and all lands within the exterior boundaries of the Laguna Reservation or Pueblo Grant, regardless of whether the lands are owned in fee, held in trust by the United States for the Pueblo, or otherwise held.

Retail means a sale to a customer not for resale.

Laguna Pueblo Enterprise means a business that is owned at least 51% by the Pueblo, including corporations chartered under tribal, federal or state law, unincorporated business enterprises, limited liability companies, partnerships, and all other forms of business organization.

Taxpayer means any person engaging in the business of selling cigarettes within the Reservation.

Section 6-6-3. Tax on cigarettes; rate.

For the privilege of engaging in the business of selling cigarettes within the Reservation, there is levied an excise tax, known as the cigarette tax, at the rate of:

- A. three and seventy-five hundredths cents (\$0.0375) per cigarette if the cigarettes are packaged in lots of twenty or twenty-five;

- B. seven and one-half cents (\$0.075) per cigarette if the cigarettes are packaged in lots of ten; or
- C. fifteen cents (\$0.15) per cigarette if the cigarettes are packaged in lots of five.

Section 6-6-4. Exemptions.

The following sales of cigarettes are exempt from the cigarette tax imposed by this chapter:

- A. sales within the Reservation for resale within the territory of an Indian tribe, pueblo or nation other than the Pueblo of Laguna, provided that the sale must be to a person licensed by that other Indian tribe, pueblo or nation to sell cigarettes within its territory.

Section 6-6-5. License required; conditions of license.

- A. Each person engaged in the business of selling cigarettes within the Reservation, whether in wholesale transactions or at retail, shall obtain a license for that business, issued by Treasurer, authorizing that person to engage in the business of selling cigarettes within the Reservation.
- B. The license to sell cigarettes within the Reservation is conditioned on the licensee's compliance with the following restrictions:
 - (1) The licensee shall not sell cigarettes to anyone under eighteen (18) years of age.
 - (2) The licensee shall pay all taxes due to the Pueblo on its cigarette sales.
 - (3) The licensee shall sell cigarettes that bear a New Mexico Tax Credit Stamp only for
 - (i) use or resale within the Reservation,
 - (ii) use or resale within the territory of another Indian tribe, pueblo or nation located in New Mexico, or
 - (iii) use but not resale at a location in New Mexico outside of the territory of any Indian tribe.

Section 6-6-6. Tax return; payment of tax; records; assessment.

- A. Each Taxpayer shall, on or before the 25th day of the month following the end of the month in which the cigarettes are sold, file with the Division a return setting forth:

- (1) the amount of cigarettes sold within the Reservation,
 - (2) the amount of cigarettes sold within the Reservation for which an exemption exists under section 6-6-4.A, including the name and address of the purchaser and proof that the purchaser is licensed to sell cigarettes by another Indian tribe, pueblo or nation,
 - (3) the amount of cigarette tax due to the Pueblo, and
 - (4) such other information relevant to the administration of this chapter as the Division may require.
- B. The Taxpayer shall sign the return and shall affirm the accuracy of the information in the return.
- C. Each Taxpayer shall pay all cigarette tax due on or before the 25th day of the month following the end of the month in which the cigarettes are sold, and such payment shall accompany the return for that reporting period.
- D. Each Taxpayer shall:
- (1) keep and preserve for three years records of all taxable sales and other books or accounts necessary to determine the amount of tax due under this chapter; and
 - (2) open all such records for examination at any time by the Division or its duly authorized representative or agent.
- E. The Division is authorized to issue a tax assessment in the amount of any cigarette tax, interest or penalty that is due but unpaid by a Taxpayer.

Section 6-6-7. Administration of cigarette tax.

- A. The administration of this chapter shall be vested in and exercised by the Division which may establish reasonable rules and regulations to carry out the intent of this chapter.
- B. The Division may exercise all powers designated by tribal law, including, but not limited to, this chapter.

Section 6-6-8. No waiver of sovereign immunity.

The Pueblo does not in any way waive its sovereign immunity from suit except as expressly provided in this chapter.

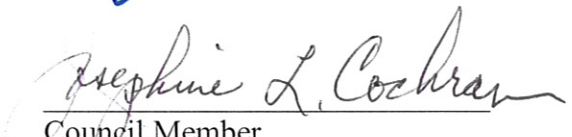
Section 6-6-9. Severability.

If any part or application of this chapter is held invalid, the remainder of the chapter or its application to other situations or persons shall not be affected.

Section 6-6-10. Effective Date.

This chapter shall be effective on, and shall apply to the sale of cigarettes on the Reservation on and after July 1, 2010.


Governor


Council Member


Council Member

ATTEST:



Pueblo Secretary

CERTIFICATION

The foregoing Ordinance was enacted by the Council of the Pueblo of Laguna on the 18th day of May, 2010, by a vote of 19 for and 1 oppose, at a duly called meeting at which a quorum of the Pueblo Council was present.


Governor

ATTEST:


Pueblo Secretary